

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

HUGH HAWKINS,

Plaintiff,

VS.

**KEITH FEILMEIER and GABRIEL
TECHNOLOGIES CORP.,**

Defendants.

8:07CV368

ORDER

The court previously ordered Gabriel Technologies Corp. to show cause why the plaintiff should not be awarded reasonable costs and attorney's fees incurred in bringing his motion to compel (Doc. 101), in accordance with Fed. R. Civ. P. 37.

Upon the court's review of the defendant's timely response (Doc. 112), the court finds that the circumstances of this incident would make an award of expenses unjust and declines to award costs or fees to either party. See Fed. R. Civ. P. 37(a)(5)(A)(iii).

IT IS SO ORDERED.

DATED July 1, 2009.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge